

REMARKS

Initially, it is noted that claim 1 has been amended to limit the positive active material of the positive electrode of the nonaqueous electrolyte secondary battery of the present invention (through the use of "consisting of" terminology) to a mixture of a lithium transition metal complex oxide A obtained by incorporating at least Zr and Mg into LiCoO_2 and a lithium transition metal complex oxide B having a layered structure and containing at least Ni and Mn as the transition metal.

New claims 19 and 20 have been added to the application. New claim 19 recites that at least 80% of the surface of the lithium transition metal complex oxide A onto which Zr in the form of a compound is adhered (as recited in claim 3 on which claim 19 depends) is left exposed without being covered with the Zr compound. New claim 19 is supported by the description on page 19, lines 20-22.

New claim 20 limits the Zr compound that is adhered onto the surface of the lithium transition metal complex oxide A as recited in claim 19 on which claim 20 depends to a compound in the form of particles. New claim 20 is supported, inter alia, by original claim 4.

Claim Rejections - 35 USC § 103

Claims 1-2, 5-9, and 15-18 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Kitao et al., EP 1 391 959 or CN 1484336A or US 7,198,871 ("Kitao"). Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitao in view of Takahashi et al, US 2004/0229123 ("Takahashi").

Reconsideration and removal of these rejections is respectfully requested in view of the above amendments to the claims and the remarks that follow.

Kitao discloses a positive electrode active material that is a mixture of a lithium-manganese composite oxide and at least one of a lithium-nickel composite oxide and a lithium-cobalt composite oxide. The position of the Office is that the lithium-cobalt composite oxide of Kitao corresponds to the lithium transition metal complex oxide A of the positive active material of the positive electrode of the nonaqueous electrolyte secondary battery of the present invention and the lithium-nickel composite oxide of Kitao corresponds to the lithium transition metal complex oxide B of the positive active material of the positive electrode of the nonaqueous electrolyte secondary battery of the present invention (and, implicitly, that the lithium-manganese composite oxide of the positive electrode active material of the battery of Kitao is not excluded from the claims of the present application).

The amendments to the claims of the present application, as noted above, limit the positive active material of the nonaqueous

electrolyte secondary battery of the present invention to a mixture of a lithium transition metal complex oxide A obtained by incorporating at least Zr and Mg into LiCoO_2 and a lithium transition metal complex oxide B having a layered structure and containing at least Ni and Mn as the transition metal and exclude other lithium-transition metal composite oxides such as the lithium-manganese composite oxide of the positive electrode active material of the battery of Kitao. Kitao, therefore, is insufficient to support a rejection of claims 1-2, 5-9, and 15-18 of the present application under 35 U.S.C. § 103(a).

Takahashi has been cited as teaching a positive electrode active material containing zirconium on the surface of a lithium transition metal composite oxide. The position of the Office is that it would have been obvious to one of ordinary skill in the art to use the lithium transition metal composite oxide of Takahashi instead of the lithium cobalt composite oxide taught by Kitao.

Takahashi does not overcome the insufficiencies of Kitao as explained above to support a case of obviousness of claims 1-2, 5-9, and 15-18 as amended. The combination of Kitao and Takahashi, therefore, does not support a case of prima facie obviousness of claims 1-18. Moreover, with respect to new claims 19 and 20, which recite that at least 80% of the surface of the lithium transition metal complex oxide A is left exposed, Takahashi discloses that the

lithium-transition metal composite oxide has an existence ratio of the surface element on the surface of preferably 40 % or more, more preferably 50 % or more, still preferably 60 % or more, and yet more preferably 80 % or more (paragraph [0106]). Therefore, notwithstanding the insufficiencies of Kitao, the combination of Kitao and Takahashi is also insufficient to support a case of prima facie obviousness of claims 19 and 20.

Removal of the 35 U.S.C. § 103(a) rejections of the claims is believed to be in order and is respectfully requested.

The foregoing is believed to be a complete and proper response to the Office Action dated August 13, 2008

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension and any additional required fees may be charged to Deposit Account No. 111833.

Respectfully submitted,

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